

AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include replacement sheets with Figures 3, 8, and 9.

In replacement Figure 3, reference numeral 20 is replaced with reference numeral 40 and Cordless Telephone Transceiver is replaced with "Wireless Ethernet Transceiver."

In replacement Figure 8, reference numeral 220 is replaced with reference numeral "230."

In replacement Figure 9, reference numeral 310 is replaced with reference numeral "3101."

Attachments: Three (3) replacement Sheets of Drawings including Figures 3, 8, and 9.

REMARKS

In the Office Action¹, the Examiner took the following actions:

objected to the drawings;

objected to the specification;

objected to claims 32 and 33;

rejected claims 30-46, 49, and 50 under 35 U.S.C. § 101 as being directed to non-statutory subject matter;

rejected claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,867,821 to Ballantyne et al. ("*Ballantyne*") in view of U.S. Patent No. 5,740,231 to Cohn et al. ("*Cohn*");

rejected claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* and further in view of U.S. Patent No. 5,805,666 to Ishizuka et al. ("*Ishizuka*");

rejected claims 11, 14, 17, 40, 43, 46, and 51-53 under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* and further in view of U.S. Patent No. 5,732,074 to Spaur et al. ("*Spaur*");

rejected claims 4, 6, 33, 35, 48, 50, and 54 under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* and *Ishizuka*, and further in view of *Spaur*; and

alleged that claims 14 and 17, and claims 43 and 46, are duplicate claims.

By the present amendment Applicant amends the specification and claims 30-46, 49, and 50. Claims 1-17 and 30-54 remain pending in this application.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

I. Objection to the Drawings

On page 2 of the Office Action the Examiner objects to Figure 1 stating that reference characters 20 and 22 and 40 and 42, have been used to respectively designate Point of Care Terminal and Network Server Computers in Figure 1. Applicant respectfully traverses the objection and asserts that reference characters 20 and 22 have been correctly used to designate a plurality of point of care terminals, and that reference characters 40 and 42 have been correctly used to designate a plurality of network servers. See specification page 14, lines 1-5. Accordingly, Figure 1 complies with the requirements of 37 CFR 1.84 and the objection to Figure 1 should be withdrawn.

The Examiner also objected to Figures 3, 8, and 9. Office Action, page 2. In an effort to further prosecution, Applicant amends Figures 3, 8, and 9, and the specification, to overcome the objections. Accordingly, Applicant respectfully requests the Examiner to withdraw the objections to the Drawings in view of the amendments.

II. Objection to the Specification

On page 4 of the Office Action the Examiner objected to the specification. In an effort to further prosecution Applicant amends Figure 3 to clarify that reference numeral 410 is referring to a "Wireless Ethernet Transceiver" as disclosed in lines 21, page 37 of the specification. Accordingly, Applicant respectfully requests the Examiner to withdraw the objection to the Specification.

III. Objection to Claims 32 and 33

The Examiner objected to claims 32 and 33 stating that claims 32 is “missing a semi-colon.” Office Action, page 4. In an effort to further prosecution, Applicant amends claim 32 as suggested by the Examiner. Therefore, Applicant respectfully requests reconsideration and withdrawal of the objection to claims 32 and 33.

IV. Rejection of Claims 30-46, 49, and 50 under 35 U.S.C. § 101

The Examiner rejected claims 30-46, 49, and 50 under 35 U.S.C. §101, alleging that the “claims fail to place the invention squarely within one statutory class of invention.” Office Action, page 5. Applicant respectfully traverses this rejection. However, to advance prosecution, Applicant amends claims 30-46, 49, and 50 to recite a “computer-readable storage device.” Claims 30-46, 49, and 50 are each directed to an article of manufacture and therefore are directed to statutory subject matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 30-46, 49, and 50 under 35 U.S.C. §101.

V. Rejection of Claims 1-17 and 30-54 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* because a prima facie case of obviousness has not been established with respect to the claims.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. See *M.P.E.P.* § 2142, 8th Ed., Rev. 6 (Sept. 2007). “A conclusion of

obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” *M.P.E.P.* § 2145. Furthermore, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” at the time the invention was made. *M.P.E.P.* § 2143.01(III), *internal citation omitted*. Moreover, “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” *M.P.E.P.* § 2141.02(I), *internal citations omitted* (emphasis in original).

“[T]he framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” *M.P.E.P.* § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” *M.P.E.P.* § 2141(III).

Independent claim 7 recites a method of accessing an information system using a portable access device including, among other steps, “establishing a communication link between said portable access device and said network server using a **communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server**, wherein said communication channel is selected from the **group consisting of: local**

wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN)." (Emphasis added).

The cited references, taken individually or in any proper combination, do not render Applicant's independent claim 7 obvious for at least the following reasons.

Ballantyne discloses a master library (ML) 2 that is connected to a nursing care station and/or a bedside patient care station (PCS) 8 via a fiber optical or coaxial cable 4. (*Ballantyne*, Figure 1; and col. 11, lines 12-27). Further, in *Ballantyne* "[n]etwork channels are assigned in accordance with service being provided," such as movies, music videos, video games, and patient laboratory data. (*Ballantyne*, Figures 8A and 8B; and col. 5, line 16-col. 6, line 19). ML 2 utilizes a coaxial cable to transmit data to PCS 8, in *Ballantyne*, by selecting a channel based on the selected service. (*Ballantyne*, col. 9, lines 28-46). Moreover, PDA 10, in *Ballantyne*, "automatically transfers the modified health record or portions thereof to the PCS via the wireless/IR communications link." (*Ballantyne*, col. 12, lines 35-37).

Such a disclosure, however, does not teach or suggest the features of claim 7. This is because the "channels" of *Ballantyne* do not constitute the claimed "communication channel" that is "selected from the group consisting of: **local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN),**" as recited in claim 7 (emphasis added). The network channels in *Ballantyne* are disclosed to be different spectrums of frequency of a coaxial cable and are not selected from a group of "local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN)," as recited in claim 7. (*Ballantyne*, col. 5, lines 23-25).

Moreover, *Ballantyne* does not teach or suggest “using a **communication channel** that is **selected** based on said communication profile and a location of said portable access device with respect to said network server,” as recited in claim 7 (emphasis added). As noted above, in *Ballantyne*, PCS 8 communicates with ML 2 via a coaxial cable, and PDA 10 communicates with PCS 8 via a wireless/IR communication link. Thus, *Ballantyne* does not teach or suggest selection of a “communication channel” from “a group.” The selection of channels in *Ballantyne* is limited to selection of a particular band of frequency based on a service request and is not “based on said communication profile and a location of said portable access device with respect to said network server,” as recited in claim 7.

Cohn is directed to “a communication system 10 [that] maintains a universal database of all users of the communications system and their individual communications profiles including the various media in which the users can send and receive messages. For example, a single user may control and receive communications using an electronic mail facility, a voice mail facility, a facsimile facility and a video facility.” (*Cohn*, col. 7, line 62-col. 8, line 7). In *Cohn*, network hubs 12, 14, and 16 use the universal database to translate a message in accordance with the communication profiles and the translated message is then routed to a destination facility. (*Cohn*, col. 8, line 6-col., line 12).

Cohn, however, fails to remedy the above-noted deficiencies of *Ballantyne* with respect to claim 7. That is, even if the teachings of *Ballantyne* and *Cohn* are combined, the combination also fails to teach, suggest, or render obvious “using a communication channel that is selected based on said communication profile and a location of said

portable access device with respect to said network server, wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN)," as recited in claim 7. This is because the combination of *Ballantyne* and *Cohn* does not teach or suggest selecting a channel "**based on said communication profile and a location of said portable access device** with respect to said network server," as recited in claim 7 (emphasis added). Moreover, the combination also does not teach or suggest selecting a communication channel from a group of "local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN)," as recited in claim 7.

Accordingly, *Ballantyne* and *Cohn* do not teach, suggest, or render obvious the features of claim 7.

In view of at least the mischaracterizations of the references, the Office Action has neither properly determined the scope and content of the references nor properly ascertained the differences between the references and independent claim 7. Moreover, there is no teaching in the cited references which would motivate one of ordinary skill in the art to modify the disclosures thereof to achieve Applicant's claimed combination. Accordingly, the Office Action has failed to clearly articulate a reason why all of the features of claim 7 would have been obvious to one of ordinary skill in view of the references and a *prima facie* case of obviousness has not been established. Therefore, the Examiner should withdraw the rejection of claim 7 under 35 U.S.C. § 103(a).

Independent claims 12, 36, and 41, while of different scope, recite features similar to those of claim 7 and are thus also allowable over *Ballantyne* and *Cohn* for reasons similar to those presented above for claim 7. The remaining claims are also allowable at least due to their dependence from the independent claims.

Accordingly, reconsideration and withdrawal of this rejection of claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 under 35 U.S.C. § 103(a) is therefore respectfully requested and deemed appropriate.

Applicant respectfully traverses the rejection of claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* and further in view of *Ishizuka* because a prima facie case of obviousness has not been established.

Independent claims 1, 3, 30, and 32, while of different scope, recite features similar to those of claim 7. As discussed above *Ballantyne* and *Cohn* do not teach, suggest, or render obvious the features of claim 7. In addition, *Ishizuka* fails to cure the above-noted deficiencies of *Ballantyne* and *Cohn*. Thus, independent claims 1, 3, 30, and 32 and their respective dependent claims are allowable over the cited references.

Accordingly, reconsideration and withdrawal of this rejection of claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 under 35 U.S.C. § 103(a) is therefore respectfully requested and deemed appropriate.

Applicant respectfully traverses the rejection of claims 4, 6, 11, 14, 17, 33, 35, 40, 43, 46, 48, and 50-54 under 35 U.S.C. § 103(a) as being unpatentable over

combinations of *Ballantyne*, *Cohn*, *Spaur*, and/or *Ishizuka* because a prima facie case of obviousness has not been established.

Independent claim 51, while of different scope, recites features similar to those of claim 7. As discussed above *Ballantyne* and *Cohn* do not teach, suggest, or render obvious the features of claim 7. In addition, *Ishizuka* and *Spaur* fails to cure the above-noted deficiencies of *Ballantyne* and *Cohn*. Thus, independent claims 1, 3, 7, 12, 30, 32, 36, 41, and 51 and their respective dependent claims are allowable over the cited references.

Accordingly, reconsideration and withdrawal of this rejection of claims 4, 6, 11, 14, 17, 33, 35, 40, 43, 46, 48, and 50-54 under 35 U.S.C. § 103(a) is therefore respectfully requested and deemed appropriate.

VI. Alleged duplicate Claims 14 and 17, and 43 and 46

Applicant respectfully traverses the allegation that claim 14 is a duplicate of claim 17 and that claim 43 is a duplicate of claim 46. Office Action, page 27. Claim 14 is directed to the "method of claim 12 wherein **said step of transmitting** from a portable access device to a first network server is further comprised of the following steps" while claim 17 is directed to the "method of claim 12 wherein **establishing a communication link** comprises," (emphasis added). Thus, claims 14 and 17 are not duplicate claims but are claims of different content and scope.

Claims 43 and 46, while of different scope than claims 14 and 17, recite features similar to those of claims 14 and 17, respectively. Thus, claims 43 and 46 are not duplicate for at least reasons similar to those discussed above for claims 14 and 17.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the allegation that claims 14 and 17, and claims 43 and 46, are duplicate claims.

CONCLUSION

In view of the foregoing amendment and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Attachments: Three (3) replacement Sheets of Drawings including Figures 3, 8, and 9.